



**MINUTES OF THE GILA COUNTY
BOARD OF ADJUSTMENT**

Thursday, October 20, 2016

GILA COUNTY BOARD OF SUPERVISORS CONFERENCE ROOM

610 E Highway 260, Payson, AZ

9:00 am

REGULAR MEETING

1. The meeting was called to order at 8:58 am by Chairman Don Ascoli.
2. Roll Call: Therese Berumen did the roll call; Chairman Don Ascoli, Mary Lou Myers, and Kurtis Knauss were all present. A quorum is present.

Community Development Staff Members Present: Robert Gould-Planner, Scott Buzan-Building Official, Margie Chapman Code Compliance Supervisor/Zoning Assistant and Therese Berumen-Administrative Assistant.

3. Review and Approval of the Board of Adjustment Minutes of August 4, 2016. Chairman Don Ascoli asked if there were any changes needed to the minutes. No changes were suggested. Chairman Don Ascoli motioned that the minutes be approved as is and Kurtis Knauss seconded the motion. The motion was unanimously approved.
4. **Planner/Commission Communication:** At any time during this meeting of the Board of Adjustment, Planner Bob Gould of Community Development may present a brief summary of current events. Mr. Gould did not have any comments at this time.

HEARINGS

Public Hearing

Appeal to approval of Administrative Variance

5. **AV16-09 Application by Red Deer, L.L.C. (Phil Poty):** Application for an Administrative Variance on Gila County Tax Assessor Parcel 302-34-016J, located at 8178 W Dukes Road, Payson, AZ. The applicant is requesting an administrative variance to house horses in corrals and to have them 15 feet from the property lines instead of the required 30 feet.

Planner Bob Gould presented the Staff Report Overview. The Board of Adjustment may allow an administrative variance from the terms of the Ordinance when, owing to particular conditions, a strict interpretation would work an unnecessary hardship, if in granting the administrative variance the general intent on the purposes of the zoning ordinance will be preserved. This administrative variance has been appealed, due to the fact that the property owner would not like to have the odor and flies from the horses, which are located across the street from the lot they own. Upon inspection of the property, it was found that there were horses in the front yard just across the street and also on the adjoining lot. Zoning for this property does allow horses. The administrative variance for this property is to simply allow the horses in the front yard and closer than the 30 foot required setbacks. The approved setbacks are intended to be 15 feet from the property lines. Planner Bob Gould stated that, just the week of the meeting, we did receive

information from the property owners, who filed the appeal, that they had worked out their differences and they will go along with the Administrative Variance. The property owners, who filed the appeal, wrote this on the right hand corner of the site plan, which we have a copy of. They stated they approve as long as the horse shelter is in the South East corner of approved area. Planner Bob Gould stated he wouldn't agree to them stating where they had to be located. Also stating it was a frivolous appeal. Recommending the board deny the appeal. Chairman Don Ascoli asked for clarification on the setback and where the horses would be kept. Planner Bob Gould restated the information. Mary Lou Myers stated that because there were other corrals in the area and the fact that the property owners who appealed the variance withdrew it, she recommends the denial of the appeal also. Chairman Don Ascoli asked Kurtis Knauss if he had a copy of the agenda and if he understands what is being asked. Kurtis Knauss stated yes.

The meeting was opened to public comment. The property owner, Phil Poty stated that he had a 2 ½ hour conversation with the Mr. and Mrs. Spinaio and stating they had no issue with what he wants to do. Planner Bob Gould also added that Phil Poty knows he needs to keep up the property, so there are no issues with smell or flies from the horses. No further comments. The public comment portion of the meeting was closed.

Mary Lou Myers motioned to approve V-16-04 with the stipulations recorded to deed, and to deny the appeal. The motion was seconded by Kurtis Knauss. The motion was approved unanimously.

Variance Application

6. **V16-04 Application by Alejandro and Linda Martinez:** Application for a Variance on Gila County Tax Assessor Parcel 301-24-122, located at 3798 Anvil Road, Pine, AZ. The applicant was granted an administrative variance for a 5 foot side setback. The first measurement for the setback that staff recorded was 4 feet, 6 inches. After the garage was partially built, the staff noticed that it was much closer, at 3 feet, 4 inches. The applicant was provided several options to deal with this problem, one of which was to apply for a variance and go before the Board of Adjustment.

Planner Bob Gould presented the Staff Report Overview. The Board of Adjustment may allow a Variance from the terms of the Ordinance when, owing to particular conditions, a strict interpretation would work an unnecessary hardship, if in granting the variance the general intent on the purposes of the zoning ordinance will be preserved. Planner Bob Gould stated if the variance is granted, he would still have to meet the building code requirements. Chairman Don Ascoli asked to clarify the building code requirements. Planner Bob Gould referenced page 7 of the staff report, which is a letter Scott Buzan (Chief Building Official), wrote to the applicant, stating if the variance is approved for the 3 foot 4 inch setback, the exterior wall is to have a minimum 1 hour fire-resistance rating and a 1 hour fire-resistance rating on the underside if the projection is 2 feet to less than 5 feet from the property line. Mary Lou Myers asked how the garage's setback got that far off what it was originally supposed to be. Chief Building Official Scott Buzan explained where the pins were located and explained how setbacks are measured. restated what the measurements were, the 1st and 2nd time they went out to inspect. Also clarifying that the county handled the measurements like they have always done and not sure how the setbacks got so far off. Planner Bob Gould stated that he doesn't know why the contractor can't put building where it is supposed to go.

The meeting was opened to public comment. Mrs. Jordan (next door neighbor) stated the string

on the property was moved several times while contractors were digging. Chairman Don Ascoli made the comment that it seems like contractor didn't do his job. Mrs. Martinez stated that before they bought the property, they had it surveyed and it was sent to the state and also offered that some explanation for the off measurements could be because of the shape of the property, making the back of the garage closer to the property line than the front of the garage. Mary Lou Myers stated that this sounded legitimate thing that happened and she is ok with the variance as long as it meets the fire codes. Mrs. Martinez stated that they have followed all compliances that the county has set forth and that they had a licensed contractor doing the work. They were not aware of any problems and as soon as they found out, they worked closely with Margie, Bob and Scott to resolve them. Also stated they would do whatever they needed to do. They didn't set out to cause problems and just want the garage done by winter, so they can park in their garage. Mary Lou Myers asked if the block wall was on their property. Mr. Martinez stated that it indeed was. Concerns by neighbors about the wall being a firewall were brought up. The block wall height was also brought up. Chief Building Official stated that the wall is solid, so it would meet fire ratings and it would have to be raised at least 3 feet in height to go above the garage. Chairman Don Ascoli stated that he was just trying to look for more simple ways to resolve this issue. Mrs. Jordan brought up the issue about the garage containing chemicals. Mr. Martinez used to be a pest control specialist and stated that there are no chemicals being stored in there and that he is now retired, so it isn't an issue. Mary Lou Myers also stated that Mr. and Mrs. Martinez wouldn't want anything to happen to their home either, so she didn't see a concern with it. Planner Bob Gould brought up that he thinks it may be appropriate to table this until they can get more accurate measurements. Chairman Don Ascoli asked other board members when they could get together to go back to property. Stating that he just wants to be fair to everyone involved. Agreed they would meet on October 25th at 8:30 AM. Also asking Mr. and Mrs. Martinez if it was ok to be on their property. They said yes. The Public comment portion of the meeting was closed.

Mary Lou Myers motioned to table V16-04, so more accurate measurements can be taken. The Remeet would be November 3, 2016 at 9:00 AM. The motion was seconded by Kurtis Knauss. The motion was approved unanimously.

7. Adjournment. Chairman Don Ascoli made a motion to adjourn the meeting and Kurtis Knauss seconded the motion. The motion to adjourn was unanimously approved at 10:08 AM.